

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill No. 237,
2 Page 1, Section A, Line 2, by inserting after said section and line the following:

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4 "198.070. 1. When any adult day care worker; chiropractor; Christian Science practitioner;
5 coroner; dentist; embalmer; employee of the departments of social services, mental health, or health
6 and senior services; employee of a local area agency on aging or an organized area agency on aging
7 program; funeral director; home health agency or home health agency employee; hospital and clinic
8 personnel engaged in examination, care, or treatment of persons; in-home services owner, provider,
9 operator, or employee; law enforcement officer; long-term care facility administrator or employee;
10 medical examiner; medical resident or intern; mental health professional; minister; nurse; nurse
11 practitioner; optometrist; other health practitioner; peace officer; pharmacist; physical therapist;
12 physician; physician's assistant; podiatrist; probation or parole officer; psychologist; social worker;
13 or other person with the care of a person sixty years of age or older or an eligible adult has
14 reasonable cause to believe that a resident of a facility has been abused or neglected, he or she shall
15 immediately report or cause a report to be made to the department.

16 2. (1) The report shall contain the name and address of the facility, the name of the
17 resident, information regarding the nature of the abuse or neglect, the name of the complainant, and
18 any other information which might be helpful in an investigation.

19 (2) In the event of reasonable cause to believe a suspected sexual assault of the resident has
20 occurred, in addition to the report to be made to the department, a report shall be made to a local
21 law enforcement entity in accordance with federal law under the provisions of 42 U.S.C. 1320b-25.

22 3. Any person required in subsection 1 of this section to report or cause a report to be made
23 to the department who knowingly fails to make a report within a reasonable time after the act of
24 abuse or neglect as required in this subsection is guilty of a class A misdemeanor.

25 4. In addition to the penalties imposed by this section, any administrator who knowingly
26 conceals any act of abuse or neglect resulting in death or serious physical injury, as defined in
27 section 556.061, is guilty of a class E felony.

28 5. In addition to those persons required to report pursuant to subsection 1 of this section,
29 any other person having reasonable cause to believe that a resident has been abused or neglected
30 may report such information to the department.

31 6. Upon receipt of a report, the department shall initiate an investigation within twenty-four
32 hours and, as soon as possible during the course of the investigation, shall notify the resident's next
33 of kin or responsible party of the report and the investigation and further notify them whether the
34 report was substantiated or unsubstantiated unless such person is the alleged perpetrator of the abuse
35 or neglect. As provided in section 192.2425, substantiated reports of elder abuse shall be promptly
36 reported by the department to the appropriate law enforcement agency and prosecutor.

Action Taken _____ Date _____

1 7. If the investigation indicates possible abuse or neglect of a resident, the investigator shall
2 refer the complaint together with the investigator's report to the department director or the director's
3 designee for appropriate action. If, during the investigation or at its completion, the department has
4 reasonable cause to believe that immediate removal is necessary to protect the resident from abuse
5 or neglect, the department or the local prosecuting attorney may, or the attorney general upon
6 request of the department shall, file a petition for temporary care and protection of the resident in a
7 circuit court of competent jurisdiction. The circuit court in which the petition is filed shall have
8 equitable jurisdiction to issue an ex parte order granting the department authority for the temporary
9 care and protection of the resident, for a period not to exceed thirty days.

10 8. Reports shall be confidential, as provided pursuant to section 192.2500.

11 9. Anyone, except any person who has abused or neglected a resident in a facility, who
12 makes a report pursuant to this section or who testifies in any administrative or judicial proceeding
13 arising from the report shall be immune from any civil or criminal liability for making such a report
14 or for testifying except for liability for perjury, unless such person acted negligently, recklessly, in
15 bad faith or with malicious purpose. It is a crime under section 565.189 for any person to
16 knowingly file a false report of elder abuse or neglect.

17 10. Within five working days after a report required to be made pursuant to this section is
18 received, the person making the report shall be notified in writing of its receipt and of the initiation
19 of the investigation.

20 11. No person who directs or exercises any authority in a facility shall evict, harass, dismiss
21 or retaliate against a resident or employee because such resident or employee or any member of
22 such resident's or employee's family has made a report of any violation or suspected violation of
23 laws, ordinances or regulations applying to the facility which the resident, the resident's family or an
24 employee has reasonable cause to believe has been committed or has occurred. Through the
25 existing department information and referral telephone contact line, residents, their families and
26 employees of a facility shall be able to obtain information about their rights, protections and options
27 in cases of eviction, harassment, dismissal or retaliation due to a report being made pursuant to this
28 section.

29 12. Any person who abuses or neglects a resident of a facility is subject to criminal
30 prosecution under section 565.184.

31 13. The department shall maintain the employee disqualification list and place on the
32 employee disqualification list the names of any persons who are or have been employed in any
33 facility and who have been finally determined by the department pursuant to section 192.2490 to
34 have knowingly or recklessly abused or neglected a resident. For purposes of this section only,
35 "knowingly" and "recklessly" shall have the meanings that are ascribed to them in this section. A
36 person acts "knowingly" with respect to the person's conduct when a reasonable person should be
37 aware of the result caused by his or her conduct. A person acts "recklessly" when the person
38 consciously disregards a substantial and unjustifiable risk that the person's conduct will result in
39 serious physical injury and such disregard constitutes a gross deviation from the standard of care
40 that a reasonable person would exercise in the situation.

41 14. The timely self-reporting of incidents to the central registry by a facility shall continue
42 to be investigated in accordance with department policy, and shall not be counted or reported by the
43 department as a hot-line call but rather a self-reported incident. If the self-reported incident results
44 in a regulatory violation, such incident shall be reported as a substantiated report."; and

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46 Further amend said bill by amending the title, enacting clause, and intersectional references
47 accordingly.